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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/840,042 | 05/06/2004 | Mark Edwin Forry | 9630 | 7766 |

27752 7590 03/05/2010
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

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| EXAMINER |
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CORDRAY, DENNIS R

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| ART UNIT | PAPER NUMBER |
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1791

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| MAIL DATE | DELIVERY MODE |
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03/05/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/840,042 | Applicant(s) FORRY ET AL. | |
| | Examiner DENNIS CORDRAY | Art Unit 1791 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5,7 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 7 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's amendments, filed 12/14/2009, have overcome the outstanding rejections over Chen et al alone and the rejection of Claim 10 over Chen et al in view of Klowak et al. Therefore, the rejections have been withdrawn. However, upon further consideration and due to the amendments, new grounds of rejection are made in view of the cited prior art.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 5, 7 and 12-15 are rejected under 35 U.S.C. 103(a) as unpatentable over Chen et al (US 2004/0099388) in view of Klowak et al (4507173) and as evidenced by Swoboda et al (6740373).

Claims 1, 5, 7, 12, 13 and 15: Chen et al ('388) discloses tissue products in roll form (Abs; p 1, par 1; p 2, par 23; p 4, par 39; p 6, par 74; p 18, par 175) comprising a wet laid fibrous structure (p 8, par 85; p 17, par 170) having a patterned three dimensional configuration of raised web portions molded into the web and projecting out of the surface (p 2, pars 16, 20 and 23). The molded portions can be made by embossing (p 6, par 67; p 9, par 97) or, alternatively, the web can be embossed separately from the molding process (p 6, par 68; p 17, par 170; p 18, pars 177 and 178). In some embodiments (see Figs 7A and 7B), the molded pattern comprises

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raised areas of low relative density and compressed areas of high relative density, thus is a differential density structure.

The web inherently has at least first and second surfaces or, at least, such surfaces would have been obvious to one of ordinary skill in the art.

In some embodiments, the raised portions have a height above the planar surface of the web of about 1 mm, or 1000 μm , which reads on values greater than 1000 μm (p 9, par 96). Figure 4 shows an embodiment where both sides of the web are molded to approximately the same deformation height.

The web is covered by an adhesive material, applied to the web before, during or after the web is molded, (p 16, par 162). Chen et al ('388) discloses that the adhesive can be a latex, such as vinyl acetate copolymers, ethylene-vinyl acetate, styrene-butadiene, acrylic emulsions (p 13, par 140).

Examples of the disclosed molded pattern (see Fig 5) reveal patterns that are not nesting, thus the average effective sheet caliper of the molded product is greater than that of an unmolded product.

Chen et al does not disclose the glass transition temperature (T_g) of the latex binder. The disclosed species are substantially the same as commercially available conventional latexes that have T_g 's in the claimed range (see Swoboda et al, 6740373, col 27, Table 5), thus will have a T_g in the claimed range or, at least, it would have been obvious to one of ordinary skill in the art to obtain the claimed T_g .

Chen et al does not disclose that the latex is substantially present in the high density regions of the fibrous structure.

Klowak et al discloses a fibrous tissue structure comprising a patterned web comprising a molded pattern of compressed areas and raised areas and a binding material applied to the surface thereof. The pressure applied by the raised surfaces of the impression roller of the molding apparatus causes the binding liquid to be dispersed deeply into the compressed areas (areas of higher density) and highly concentrated therein to provide strength, while the uncompressed areas receive a light coating of very little binder that provides resistance to linting, a soft bulky feel and excellent absorbency (Abs; col 1, line 61 to col 2, line 33; Fig. 5).

The art of Chen et al ('388), Klowak et al and the instant invention is analogous as pertaining to tissue products comprising three dimensional molded patterns and a binding material. It would have been obvious to one of ordinary skill in the art to concentrate the binder to be substantially present (more than 50%) in the compressed areas of higher density and more lightly present in the raised areas of the product of Chen et al in view of Klowak et al to provide strength in the compressed areas while providing resistance to linting, a soft bulky feel and excellent absorbency to the raised areas.

The structure of the sheet so made is substantially the same as the claimed structure, thus will have the claimed properties because, where the claimed and prior art apparatus or product are identical or substantially identical in structure or composition, a

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prima facie case of either anticipation or obviousness has been established. *In re Best*, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977). In other words, when the structure recited in the reference is substantially identical to that of the claims, the claimed properties or functions are presumed to be inherent or at least obvious.

Claim 14: Chen et al discloses products having a caliper of 0.027 to 0.30 in., or 27 to 30 mils (Figure 15).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DENNIS CORDRAY whose telephone number is (571)272-8244. The examiner can normally be reached on M - F, 7:30 -4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven P. Griffin/
Supervisory Patent Examiner, Art
Unit 1791

/Dennis Cordray/
Examiner, Art Unit 1791